

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arthur Albano	Team: Squad #4	CCRB Case #: 201510210	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/02/2015 7:30 AM	Location of Incident: § 87(2)(b)	Precinct: 78	18 Mo. SOL 6/2/2017	EO SOL 6/2/2017	
Date/Time CV Reported Wed, 12/02/2015 9:35 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/02/2015 9:35 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			013 DET
2. SGT Rayna Madho	04816	939829	013 DET
3. DT3 John Santiago	00823	937488	013 DET
4. CPT Gary Messina	00000	874530	DBM ZN2
5. An officer			013 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ryan Christopher	24843	946455	013 DET
2. DT3 Robert Cardona	07724	928019	013 DET
3. DT3 George Droesch	4611	930076	013 DET
4. DT3 Damarr Mcbean	2490	942152	013 DET
5. POM John Stiene	27299	939536	013 DET
6. DT3 Eric Hayden	4620	934998	013 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT3 John Santiago	Abuse: Det. John Santiago entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 John Santiago	Abuse: Det. John Santiago failed to show the search warrant to § 87(2)(b)	§ 87(2)(b)
C.CPT Gary Messina	Abuse: Cpt. Gary Messina failed to show the search warrant to § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.SGT Rayna Madho	Abuse: Sgt. Rayna Madho frisked § 87(2)(b)	§ 87(2)(b)
F. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)

Case Summary

Seven days prior to this incident, Ronald § 87(2)(b)'s son, was arrested in regards to a shooting within the confines of the 13th Precinct. On November 30, 2016 Det. John Santiago, of the 13th Pct. Det. Squad, obtained a search warrant for § 87(2)(b), in Brooklyn.

On December 2, 2015, at approximately 7:30 a.m., Det. Santiago executed a search warrant at § 87(2)(b) (**Allegation A**). § 87(2)(b) allegedly requested generally to the group of officers to see the search warrant, but the officers all ignored her request (**Allegation B**). § 87(2)(b) was brought into the living room where she was ordered to sit down, but was not handcuffed. § 87(2)(b) protested, and an officer told her that if she did not sit she could be handcuffed (**Allegation C**). § 87(2)(b) sat but continued to move and was told to stop or else she would be arrested. (within **Allegation C**).

§ 87(2)(b) was informed that they found a gun in her son's room, which they believed was his and therefore were not going to arrest her. Soon after, the officers then began to leave the apartment together. Before all the officers left, Sgt. Madho allegedly frisked § 87(2)(b) (**Allegation D**). Sgt. Madho did not find anything on § 87(2)(b) and then left the apartment.

After the officers left, § 87(2)(b) noticed that her closet door and lamp were damaged, and her curtains were ripped from the windows (**Allegation E**).

§ 87(2)(g)

Video Footage

This incident occurred inside a private home. There was no video footage discovered that captured this incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation as an alternative resolution for this complaint.
- A Notice of claim inquiry was sent to the NYC Comptroller's office on April 14, 2016. A response to this inquiry will be included in the case file upon its receipt.
- § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)

§ 87(2)(b)

- Sgt. Madho has been a member of the service for 10 years and there are no substantiated allegations against her. She has had seven prior CCRB cases with a total of 17 allegations. § 87(2)(g)
- Det. Santiago has been a member of the service for 11 years and there are no substantiated CCRB allegations against him. He has seven prior CCRB cases with a total of 18 allegations. § 87(2)(g), § 87(4-b)
- Captain Messina has been a member of the service for 35 years and there are six substantiated allegations against him. In case #9601222 allegations of Force, property damage, and discourtesy were substantiated, and the CCRB recommended Charges. There is no NYPD penalty noted for this case. In case #200404633 an Abuse of Authority (other) allegation was substantiated, of which Charges were filed. In CCRB case #201112197 a vehicle stop, vehicle search, and physical force allegation were substantiated. The CCRB recommended instructions for the case, and the NYPD Declined to prosecute and he received no penalty. Overall, Captain Messina has 50 prior CCRB cases with 114 allegations.

Findings and Recommendations

Explanation of Subject Officer Identification

Det. Santiago requested and obtained the search warrant for § 87(2)(b) as a result of his investigation. Therefore **Allegation A** is pleaded against him.

§ 87(2)(b) alleged that she requested the entire group of officers to show her the search warrant immediately after they entered, but was ignored. According to Sgt. Madho (Board Review 01), the only officers to have copies of the search warrant at that time were Det. Santiago, Captain Messina, and Sgt. Madho. It is undisputed that Sgt. Madho was not present for the initial entry, and therefore would not have been present for the alleged request. As such, a refusal to show the search warrant (**Allegations B** and **C**) will be pleaded against Det. Santiago and Captain Messina.

§ 87(2)(b) alleged (Board Review 02) that two different officers threatened to arrest her during this interaction. § 87(2)(b) described one of the officers to be a 5'7" tall, 110-120-lbs white man with light brown hair and blue eyes. None of the officers match this description and as such the allegation is pleaded against "an officer."

§ 87(2)(b) did not witness any officer damage her property, but discovered the damage only after all of the officers had left her home. Therefore, § 87(2)(b) was unable to attribute the action to any particular officer. Therefore, **Allegation F** will be pleaded against "Officers."

Allegation A –Abuse of Authority: Det. John Santiago entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that Det. Santiago and a team of officers from the 13th Det. Squad entered and searched § 87(2)(b) in Brooklyn. It is undisputed that Det. Santiago knocked and announced himself as "police," and § 87(2)(b) opened the door, rather than the

officers forcefully entering. Det. Santiago obtained a search warrant for the premises on November 30, 2016, two days prior to this incident (Board Review 03). The warrant was executed within the 10 day guideline stipulated on the warrant.

NYS Criminal Procedure Law (CPL) 690.50 1, states that a search warrant authorizes a police officer to conduct a search of the designated premises for the purposes of seizing property or kinds of property, and to deliver any property so obtained to the court which issued the warrant (Board Review 04).

§ 87(2)(b), § 87(2)(g)

Allegation B- Abuse of Authority- Det. John Santiago failed to show the search warrant to

§ 87(2)(b)

Allegation C- Abuse of Authority- Captain Gary Messina failed to show the search warrant to

§ 87(2)(b)

§ 87(2)(b) stated that she requested, generally from the group of officers that initially entered, to show her a search warrant and she was ignored (Board Review 02). The only officers to have a copy of the search warrant when the request allegedly occurred were Det. Santiago and Captain Messina. According to Det. Santiago (Board Review 05), he showed § 87(2)(b) a copy of the search warrant before she opened the door for officers because § 87(2)(b) would not open the door otherwise. Additionally, he stated that once he entered the residence, he handed § 87(2)(b) a copy of the search warrant to review. Det. Santiago stated that she did not make another request to see the warrant to Captain Messina.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation D- Abuse of Authority- An officer threatened to arrest

§ 87(2)(b)

It is undisputed that § 87(2)(b) was told to sit in the living room. According to § 87(2)(b) she verbally protested where the officer told her to sit, saying that they could not tell her where to sit in her own house (Board Review 02). At that point, the officer told § 87(2)(b) that if she did not sit where he told her to sit, she would be arrested. Further, it is undisputed that § 87(2)(b) was told multiple times to not move around. According to § 87(2)(b) this occurred after every slight movement that she made. § 87(2)(b) then stated that she attempted to reach for a tissue that was on the table next to her. In response to this movement, an officer stated, “If you don’t follow instructions, then we are going to arrest you.”

A person is guilty of Obstructing Governmental Administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference. (Board Review 02)

By § 87(2)(b)'s own statement, she was given orders to sit in a specific spot, and stop moving. § 87(2)(b)'s intentional refusal to comply with the order to sit, with the only explanation being that she should not be told where to sit in her own house, was sufficient to determine that § 87(2)(b) was guilty of obstructing governmental administration. Additionally, § 87(2)(b)'s failure to comply with lawful orders to stop moving, and her reaching for a tissue obstructed the officers' ability to execute the search warrant.

§ 87(2)(b), § 87(2)(g)

Allegation E- Abuse of Authority- Sgt. Rayna Madho frisked § 87(2)(b)

It is undisputed that as officers were leaving § 87(2)(b)'s home, Sgt. Madho frisked § 87(2)(b)'s outer clothing and headscarf for weapons. Vouchers relative to the execution of this search warrant confirm that a gun was found inside the apartment prior to the search of § 87(2)(b) (Board Review 06).

Criminal Procedure Law 690.15 (2) states that a search warrant which directs a search of a designated or described place, premises or vehicle, may also direct a search of any person present thereat or therein. (Board Review 02)

§ 87(2)(b), § 87(2)(g)

Allegation F- Abuse of Authority- Officers damaged § 87(2)(b)'s property.

§ 87(2)(b) denied seeing any officer damage property, but stated that she observed a broken closet door, a lamp, and her curtains ripped from the windows after the officers had left (Board Review 02). § 87(2)(b) could not provide any photographs or other evidence documenting the damaged property, despite multiple requests for her to do so.

Sgt. Madho and Det. Santiago denied seeing any damaged property in the apartment at any point of this incident (Board Review 01 and 05).

§ 87(2)(b), § 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date